

decided. This paper supplements that monograph and is designed as a reference for North Carolina judges and litigants. Section I begins with a discussion of *Davis v. Washington*,⁴ the United States Supreme Court's first decision interpreting *Crawford*. Section II discusses a number of key issues that remain open even after *Davis*. Finally, Section III summarizes significant *Crawford* cases decided since publication of *Confrontation One Year Later*, and highlights how *Davis* might impact the confrontation clause analysis with regard to particular categories of evidence.

I. *Davis v. Washington*

A. Facts

Davis was the Court's first opportunity to apply its new *Crawford* test. The decision involved two cases: *Davis v. Washington* and *Hammon v. Indiana*. The fact that both cases involved domestic violence is no coincidence. Because victims often fail to testify in domestic violence cases, this category of cases—along with child abuse cases where the same problem occurs—was dramatically impacted by the *Crawford* decision.⁵

Davis involved a confrontation clause objection to statements made by a victim during a 911 call. During the call, the following conversation occurred:

911 Operator: Hello.
 Complainant: Hello.
 911 Operator: What's going on?
 Complainant: He's here jumpin' on me again.
 911 Operator: Okay. Listen to me carefully. Are you in a house or an apartment?
 Complainant: I'm in a house.
 911 Operator: Are there any weapons?
 Complainant: No. He's usin' his fists.
 911 Operator: Okay. Has he been drinking?
 Complainant: No.
 911 Operator: Okay, sweetie. I've got help started. Stay on the line with me, okay?
 Complainant: I'm on the line.

911 Operator: Listen to me carefully.
 Do you know his last name?
 Complainant: It's Davis.
 911 Operator: Davis? Okay, what's his first name?
 Complainant: Adrian.
 911 Operator: What is it?
 Complainant: Adrian.
 911 Operator: Adrian?
 Complainant: Yeah.
 911 Operator: Okay. What's his middle initial?
 Complainant: Martell. He's runnin' now."⁶

The conversation continued and the operator learned that Davis had run out after hitting the victim, and was leaving in a vehicle. When the victim started talking, the operator cut her off, saying, "Stop talking and answer my questions." The operator gathered more information about Davis, including his birthday and why he had come to the house. The victim described the assault and the operator told her that the police would first try to find Davis and then come to her house. The police arrived within four minutes and saw that the victim was shaken, had fresh injuries, and was frantically gathering her belongings and children to leave the residence.

The State charged Davis with felony violation of a domestic no-contact order. At trial, the victim did not testify. The State's only witnesses were the police officers who responded to the scene. Over Davis's confrontation clause objection, the trial court admitted a recording of the 911 call. Davis was convicted, and he appealed. On appeal, the confrontation clause issue was limited to that portion of the 911 call in which the victim identified Davis as the perpetrator.⁷

Hammon involved a police response to a reported disturbance at the home of Hershel and Amy Hammon. The police found Amy alone on the front porch, appearing somewhat frightened; however, Amy told the officers that nothing was the matter. After receiving Amy's permission to enter the home, one officer saw a flaming gas heating unit and pieces of glass in front of the heater. Hershel, who was in the kitchen, told the police that he and Amy had argued but that everything was fine and the argument never became physical. An officer again asked Amy what had happened. Hershel made several attempts to intervene in this conversation, became angry when an officer stopped him from doing so, and had to be "forcibly" prevented from interfering.⁸ Amy told the

⁴ 126 S. Ct. 2266 (2006).

⁵ See *id.* at 2279-80 (acknowledging that domestic violence cases are "notoriously susceptible to intimidation or coercion of the witness to ensure that she does not testify at trial").

⁶ *Id.* at 2271.

⁷ *Id.* at 2277.

⁸ *Id.* at 2278.